

## Architectural and Transp. Barriers Compliance Board

## § 1120.51

the extent that the production of such records would—

(i) Interfere with enforcement proceedings;

(ii) Deprive a person of a right to a fair trial or an impartial adjudication;

(iii) Constitute an unwarranted invasion of personal privacy;

(iv) Disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source;

(v) Disclose investigative techniques and procedures; or

(vi) Endanger the life or physical safety of law enforcement personnel;

(8) Contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) Geological and geophysical information and data, including maps, concerning wells.

(b) The fact that the applicability of an exemption permits the withholding of a requested record (or portion of a record) does not necessarily mean that the record must or should be withheld. (See § 1120.42 *Release of exempt documents*.)

### § 1120.42 Release of exempt documents.

(a) An A&TBCB office may, in its discretion, release requested records despite the applicability of one or more of the exemptions listed in § 1120.41 (a)(2), (5), or (7). Disclosure of such records is encouraged if no important purpose would be served by withholding the records.

(b) Though the policy of the A&TBCB is to honor all requests, as indicated in § 1120.21(a), there are circumstances when the A&TBCB will not disclose a record if one or more of the FOIA exemptions applies to the record. The exemptions usually in such circumstances are exemptions (2), (3), (4), (6), (8) and (9). In these cases, where the A&TBCB has withheld a requested record, or portions thereof, the

A&TBCB will disclose the exempted record when ordered to do so by a Federal court or in exceptional circumstances under appropriate restrictions with the approval of the Office of General Counsel.

## Subpart E—Copies of Records and Fees for Services

### § 1120.51 Charges for services, generally.

(a) It shall be the policy of the ATBCB to comply with requests for documents made under the FOIA using the most efficient and least costly methods available. Requesters will be charged fees, in accordance with the administrative provisions and fee schedule set forth below, for searching for, reviewing (in the case of commercial use requesters only), and duplicating requested records.

(b) *Categories of requesters.* For the purpose of standard FOIA fee assessment, the four categories of requesters are: Commercial use requesters; educational and non-commercial scientific institution requesters; requesters who are representatives of the news media; and, all other requesters (see § 1120.2 (l) through (o), Definitions).

(c) *Levels of fees.* Levels of fees prescribed for each category of requester are as follows:

(1) *Commercial Use Requesters*—When the ATBCB receives a request for documents which appears to be a request for commercial use, the Board may assess charges in accordance with the fee schedule set forth below, which recover the full direct costs of searching for, reviewing for release, and duplicating the records sought. Costs for time spent reviewing records to determine whether they are exempt from mandatory disclosure applies to the initial review only. No fees will be assessed for reviewing records, at the administrative appeal level, of the exemptions already applied.

(2) *Educational and Non-Commercial Scientific Institution Requesters*—The ATBCB shall provide documents to requesters in this category for the cost of reproduction alone, in accordance with the fee schedule set forth below, excluding charges for the first 100 pages of reproduced documents.